

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)	
OF INTER-JURISDICTIONAL ISSUES)	CASE NO. PAC-E-02-3
AFFECTING PACIFICORP DBA UTAH)	
POWER & LIGHT COMPANY)	NOTICE OF INVESTIGATION
)	
)	NOTICE OF INTERVENTION
)	DEADLINE
)	
)	NOTICE OF SCHEDULING
)	
)	ORDER NO. 28978

On March 5, 2002, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) petitioned the Idaho Public Utilities Commission (Commission) to initiate an investigation of inter-jurisdictional issues affecting the Company as a consequence of its status as a multi-jurisdictional utility subject to the jurisdiction of six state regulatory commissions.

By this Order the Commission establishes a docket for investigation, establishes an intervention deadline, approves a joint multi-state process (MSP) for analyzing PacifiCorp inter-jurisdictional issues (Reference *Idaho Code* § 61-505) and establishes initial MSP scheduling. Reference *Idaho Code* § 61-501.

BACKGROUND

PacifiCorp provides retail electric service to more than 1.5 million customers in Idaho and five other western states. PacifiCorp owns substantial generation and transmission facilities that are operated as a single system on an integrated basis in order to provide service to all customers in a cost-effective manner. PacifiCorp recovers costs of owning and operating its generation and transmission system in retail prices established in separate state regulatory proceedings. PacifiCorp observes that if different state commissions make different decisions regarding what generation and transmission resources should be deemed to be in PacifiCorp's rate base or if different state commissions adopt different policies for allocating the costs of generation and transmission resources among states, the Company may recover less than its full cost of providing electric service.

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PacifiCorp acknowledges that state regulatory commissions should have the ability to pursue policies that they determine are in the public interest in their state. However, PacifiCorp also believes that it is important for the Company to be able to make business decisions in an environment where differing state policies do not result in denying the Company a reasonable opportunity to recover its prudently incurred costs.

PacifiCorp asserts that differences in the manner in which state commissions allocate PacifiCorp's pre-1989 generation and transmission investments currently result in a substantial under-recovery of cost. PacifiCorp also contends that there is good reason for it to be concerned that divergent state policies may cause this under-recovery to increase. PacifiCorp cites the following circumstances that it believes may result in denying the Company a reasonable opportunity to recover its prudently incurred costs:

1. There is no consensus among PacifiCorp's jurisdictions as to how the cost of the Company's existing generation and transmission resources should be allocated.
2. There is no consensus among PacifiCorp's jurisdictions as to who should bear responsibility or enjoy the benefits of resources in the event of: direct access, sale or purchase of service territory or loss of industrial load.
3. There is no consensus among PacifiCorp's jurisdictions as to PacifiCorp's responsibility to meeting future load growth through the addition of rate-based resources.
4. There is no consensus among PacifiCorp's jurisdictions as to who should bear the costs of new resource additions.
5. There is no consensus among PacifiCorp's jurisdictions as to the choice of the Company's new resource additions.
6. Even if a consensus did emerge among PacifiCorp's jurisdictions in regard to the foregoing issues, there is no means for the Company to be assured that such consensus will be maintained over the full life of new resource investments so as to permit full cost recovery.

PacifiCorp maintains that these circumstances are not conducive to sound planning and business decisions and that the Commission should initiate an investigation with respect to them.

COMPANY IDENTIFIED ISSUES

PacifiCorp offers the following list of issues that it believes are appropriate for investigation by this Commission:

1. What changes, if any, are required in current Idaho law and regulatory practice in order to ensure that PacifiCorp will have a reasonable opportunity to recover prudently incurred costs associated with investments in generation resources, notwithstanding any future change in state policies?
2. What changes, if any, are required in the manner in which PacifiCorp's revenue requirement is calculated in order to accommodate different generation resource investment policies in different states?
3. What alternatives exist for allocating the costs of PacifiCorp's existing generation and transmission resources among states and which of these alternatives is most equitable?
4. What alternatives exist for reallocating existing resources in the event of: (a) direct access, (b) sale or purchase of service territory, or (c) closure of a major industrial facility, and which of these alternatives is most equitable?
5. What alternatives exist for allocating the costs of PacifiCorp's future generation resource additions among states and which of these alternatives is most equitable?
6. What alternatives exist for permitting different states to make different decisions regarding potential new generation additions and which of these alternatives is best adapted to preserving economic efficiencies?
7. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's existing generation and transmission resources among its state jurisdictions?
8. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's future resource additions among its state jurisdictions?
9. What policies should this Commission and other state commissions that regulate PacifiCorp adopt in order to afford PacifiCorp a reasonable opportunity to recover all of its prudently incurred costs of existing and future generation resource investments?

PROPOSED MULTI-STATE PROCESS

PacifiCorp further proposes that in advance of further Idaho-specific proceedings in this investigation, there be conducted a multi-state process (“MSP”) which will afford interested parties from all of the Company’s jurisdictions an opportunity to analyze inter-jurisdictional issues facing PacifiCorp and seek to achieve consensus concerning them. PacifiCorp proposes that the MSP be conducted as follows:

1. The MSP be will managed by an independent Special Master. PacifiCorp states that it has solicited recommendations from interested parties as to who might be designated as Special Master. No later than March 15, 2002, PacifiCorp proposes to nominate an individual to serve as Special Master. If, prior to March 29, 2002, one or more states accounting for more than 25% of PacifiCorp’s retail revenues (“Opposing Percentage”)¹ give notice to PacifiCorp that they object to PacifiCorp’s proposed Special Master, the MSP schedule will be suspended until either: (a) a Special Master is proposed by PacifiCorp who is not objected to by states representing an Opposing Percentage or (b) PacifiCorp gives notice that it wishes to terminate the MSP because it does not believe that a consensus can be achieved on designating a Special Master.

2. PacifiCorp requests that parties wishing to participate in the MSP provide notice to that effect to PacifiCorp as soon as practicable so that they can be included in the distribution list for MSP. Additionally, no later than April 5, 2002, interested parties should forward to PacifiCorp any briefing papers or any other information that they wish to be reviewed by the special master in advance of the MSP.²

3. All meetings of the MSP will be open to all interested parties. Facilities will be provided that permit participation by telephone.

¹ The Company states that an Opposing Percentage would be represented by either Utah or Oregon or a combination of Wyoming and Washington together with either Idaho or California. Stakeholders in each state will independently determine whether an objection should be made on behalf of their state. If a suspension occurs because a Special Master is not designated by March 29, 2002, PacifiCorp expects that there would be a corresponding slippage in each of the MSP procedural milestones proposed in the balance of its Motion.

² The Company’s Petition states that any requests to be added to the MSP distribution list or materials for review by the Special Master should be e-mailed to Sue Rolfe (Sue.Rolfe@PacifiCorp.com) or mailed to Sue Rolfe at PacifiCorp (825 NE Multnomah, Suite 300, Portland, OR 97232). PacifiCorp intends to maintain a public website in which all MSP documents will be posted to avoid a requirement that parties serve materials on each other.

4. The MSP will culminate with the filing of a Report from the Special Master with the Commission and the other state commissions regulating PacifiCorp. The Report will: (a) describe the extent of any material consensus that was achieved among Commission staffs and other interested parties as well as the views of any parties not sharing any such consensus view and (b) provide the Special Master's recommendations regarding any issues concerning which immaterial consensus was not achieved. Any such recommendations will be based upon a record to be developed by the Special Master. The Special Master will have discretion to determine whether the record, in regard to any contested issue, should consist of testimony and cross-examination or an exchange of written submittals provided that the process affords parties with a reasonable opportunity to make their views known and to contest the views of other parties.

5. PacifiCorp proposes that the MSP be conducted generally in accordance with the following schedule:

April 10, 2002	Special Master holds individual meetings with representatives from each state (Boise)
April 11 & 12, 2002	Organizing meeting (Boise)
May 7, 8 & 9, 2002	Workshop/settlement Meeting 1
May 28 & 29, 2002	Settlement Meeting 2
June 10 & 11, 2002	Final Settlement Meeting
June 25, 2002	Report from Special Master on resolved and unresolved issues and how a record will be assembled in respect to unresolved issues. (This report will not be part of the MSP record.)
July 15, 2002	All party filings on unresolved issues
August 2, 2002	All party responsive filings on unresolved issues
Week of August 12, 2002	Further proceedings (and settlement conferences on unresolved issues)
September 6, 2002	Special Master distributes draft report

September 13, 2002	Parties submit comments on draft report
September 20, 2002	Special Master files report with the Commission and other PacifiCorp state commissions
October 2, 2002	Parties submit comments on the Special Master's Report with the Commission and other state commissions

6. At the Organizing Meeting, the Special Master, after soliciting the views of the parties, will: (a) describe how the settlement meetings will be organized around particular issues, (b) establish locations for further meetings, (c) make any required adjustments in the schedule, (d) establish analytical requirements of the process and (e) determine whether it would be helpful to establish a "Stakeholders Committee" to work with the Special Master on procedural matters.

7. The MSP may be terminated at any time in advance of the submittal of the Report at the election of either states representing an Opposing Percentage or PacifiCorp if either concludes that the MSP is being conducted in an unreasonable manner or is not reasonably productive.

The Company acknowledges that its jurisdictional commissions will independently review the record assembled in the MSP and any additional evidence that may be offered in state investigatory dockets and make their decisions accordingly. The Company also recognizes that any position taken by any representative of Idaho in the MSP will not be binding on this Commission.

FURTHER COMMISSION PROCEEDINGS

1. PacifiCorp proposes that the Commission conduct public workshops during the weeks of June 18 and August 12, 2002, to afford interested parties an opportunity to provide comments to the Commission concerning the MSP and to afford the Commission the opportunity to provide guidance to the parties regarding the MSP.

2. PacifiCorp further proposes that within 30 days of receipt of the Special Master's Report, that the Commission convene a prehearing conference to establish a schedule for further

proceedings in the investigation. At such prehearing conference, parties from other jurisdictions could petition to intervene in the investigation.

3. PacifiCorp recommends that the Special Master's report, parties comments with respect to the Special Master's report and the supporting record from the Special Master's report should be made part of the record in the investigation, subject to any party's right to provide rebuttal testimony in respect to the report, comments or record.

PacifiCorp requests that the Commission issue a Notice inviting written or oral comments on the Company's Petition no later than March 22, 2002. PacifiCorp also requests that the Commission enter its Order adopting the procedure proposed by the Company's Petition no later than April 3, 2002, so that the MSP can move forward on an expeditious basis.

COMMISSION FINDINGS

YOU ARE HEREBY NOTIFIED that the Commission has reviewed and considered the Petition of PacifiCorp and found it reasonable to establish a case to investigate PacifiCorp inter-jurisdictional issues. We recognize that PacifiCorp operates in six jurisdictions and is subject to six state regulatory authorities. As a multi-state utility, PacifiCorp has both operational challenges and opportunities. While we support the Company's efforts to achieve a uniform method for allocation of system costs and also support the apparent willingness of the relevant state regulatory commissions to engage in a collaborative dialogue, we remind the Company that individual state regulatory commissions will regulate PacifiCorp and serve the public interest as they see fit. If the State Commissions can find common ground, then PacifiCorp will find it easier to operate; if not, then the Company must consider its options and adjust accordingly.

The Company has set forth a rather detailed process and aggressive schedule for addressing inter-jurisdictional issues. We find that the issues, process and schedule may change as the parties and states become actively involved in the collaborative process. In establishing this docket, we provide a forum in which an exchange of ideas, opinions, analysis and discussion can take place. We also endorse a multi-state process (MSP) so as to develop, if possible, a common regulatory approach and we encourage public and party participation. The process, if successful, will result in a report that will identify a proposed method for treatment of PacifiCorp

inter-jurisdictional allocation issues. That report will be presented to this Commission for further State procedure, scheduling and public hearing.

YOU ARE FURTHER NOTIFIED that persons desiring to intervene in Case No. PAC-E-02-3 for the purpose of becoming a formal party, i.e., to present evidence, to acquire rights of cross-examination, to participate in the proposed multi-state process, to participate in settlement or negotiation conferences and to make and argue motions must file a **Petition to Intervene** with the Commission pursuant to Rules 72 and 73 of the Commission's Rules of Procedure, IDAPA 31.01.01.072 and .073. The **deadline for filing the Petition to Intervene is Tuesday, April 2, 2002.**

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

YOU ARE FURTHER NOTIFIED that discovery is available in Case No. PAC-E-02-3 pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.221-234.

YOU ARE FURTHER NOTIFIED that the initial scheduling under the proposed multi-state process (MSP) is as follows:

WEDNESDAY, APRIL 10, 2002, Special Master holds individual meetings with representatives from each State. The meetings will be held at the Doubletree Hotel Riverside, 2900 Chinden Boulevard in Boise, Idaho (Telephone: (208)343-1871). Contact the MSP Administrative Coordinator, Sue Rolfe, for individual State times—Tele: (503) 813-6878; e-mail: Sue.Rolfe@PacifiCorp.com.

THURSDAY, APRIL 11, 2002 AND FRIDAY, APRIL 12, 2002, Organizing Meeting commencing at 9:00 a.m. at the Doubletree Hotel Riverside, 2900 Chinden Boulevard, Boise, Idaho (Telephone: (208)343-1871).

All further scheduling in this matter under the multi-state process will be coordinated by the MSP Special Master and will be pursuant to agreement of the parties and without further notice by this Commission.

YOU ARE FURTHER NOTIFIED that all multi-state process (MSP) meetings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand MSP proceedings may ask the MSP administrative coordinator to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the MSP meeting by contacting:

SUE ROLFE
MSP ADMINISTRATIVE COORDINATOR
825 NE MULTNOMAH, SUITE 300
PORTLAND, OR 97232
(503) 813-6878
E-Mail: Sue.Rolfe@PacifiCorp.com

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby establish an investigation docket, Case No. PAC-E-02-3, establishes an intervention deadline, approves a multi-state process (MSP) for analyzing inter-jurisdictional issues and establishes initial MSP scheduling.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th day of March 2002.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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